CARRYING A HEAVY LOAD—
The Impact of Educational Debt

Leslie A. Gordon

Working four days a week as a supervising attorney at the Low Income Taxpayer Clinic of the Justice & Diversity Center (JDC) of The Bar Association of San Francisco (BASF), Sarah Drinkwater effectively has $45 a month left over. Considering daycare costs, commuting expenses, a $25/month 401(k) contribution, and, last but not least, student loan payments, running the numbers in her head keeps her up at night. "Clearly, I'm on my way to wealth and fortune," quips Drinkwater, who graduated in 2009 from the University of Pittsburgh School of Law with $65,000 in student loan debt.

Yet with respect to those hefty student loans, Drinkwater actually considers herself lucky. Married during law school, her working spouse covered their living expenses, so $65,000 was a lot less than many of her fellow students borrowed, a notion supported by statistics. In 2011–2012, the average amount borrowed for public law school was $84,600 and for private law school was $122,158 (considerably up from $46,499 and $70,147, respectively, in 2001–2002), according to the American Bar Association (ABA) Section of Legal Education and Admissions to the Bar.

Drinkwater, who always wanted to do public interest work, "took the first job I could get my hands on," a small-firm associate position. She also consolidated her loans, spreading the repayments over twenty-five years. "It was painful," she says. "If I paid the minimum every month, I was looking at being sixty before it was paid off."

With her small-firm salary and a gift from her grandfather, she was able to pay more than the minimum for a time. But when her dream job at the Justice & Diversity Center came along, she couldn't pass it up. Continuing to repay her loans means contributions toward saving for retirement and going on vacation are limited. "I have two little kids and I wonder how I'm going to pay for their education when I'm still paying off mine," says Drinkwater, who may be eligible for loan forgiveness if she keeps her nonprofit job for ten years. Still, she wouldn't change anything, particularly her job, which she loves. "[Without the loans,] maybe I wouldn't have graduated in 2009," she says.

But even after the recession, legal salaries have only held steady—or in some cases dropped—while law school tuition has increased. And the debt burden of new attorneys is affecting the legal profession as a whole. Fewer lawyers can afford to take public interest positions, which affects the services nonprofit organizations can provide. Lawyers who do take public interest jobs often leave after a few years for financial reasons, depriving those organizations of experienced midlevel lawyers. Similarly, small firms, which typically represent the middle class and the poor, can't pay the salaries new lawyers need to pay back their loans, and many big-firm lawyers can't sacrifice billable hours to do pro bono work. Even worse, anecdotal evidence suggests that solo lawyers with significant debt are more likely to commit ethics violations and be sued for malpractice.

Law school debt is affecting not just the legal profession but the overall economy. First-time home buyers, the housing market's foundation, are down, and some experts believe that student loan debt is partly to blame. A study by the National Association of Realtors determined that of the 20 percent of first-time buyers who said it was difficult to save for a down payment, more than half attributed the difficulty in saving money to student loans. Similar research by the Federal Reserve Bank of New York indicated that between 2009 and 2012, the homeownership rate fell twice as much for thirty year olds who had a history of student loans than it did for those without debt.

Given these numbers, it's not surprising that the student loan crisis has attracted the interest of leaders. In June, President Barack Obama used his executive power to expand the Pay As You Earn program, which limits student borrowers' monthly debt payments to 10 percent of their discretionary income.

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Adam Minsky, a Boston-based lawyer whose practice is devoted solely to student loan law, advises graduates trying to navigate the convoluted student loan system and represents individuals facing loan-related distress such as default or delinquency. His narrow practice specialty emerged because he couldn't find any outside assistance when he had an issue with one of his own loans after graduating from law school in 2010. "I realized I probably wasn't the only one and I figured there was a niche for this. My practice grew very quickly," recalls Minsky, who says "a good chunk" of his clients are attorneys with law school debt.

What makes law school borrowers different, Minsky says, is that their debts are often "well in excess of $100,000, with many approaching or eclipsing $200,000, and they face dim job prospects. Only a few law school graduates get the high-paying, big-firm jobs. For everyone else, you're lucky if you start off making $60,000. It makes it very difficult to get by."

A significant part of the problem is law school tuition. Already expensive, it's growing, and the gap between public and private tuition has narrowed. "It's less possible to find more affordable options," explains North Carolina student loan consultant Heather Jarvis. "Meanwhile, we've experienced changes in the legal job market because of the recession. It's taking grads longer to find suitable work, and salaries are not keeping pace with the increases in student debt. Solutions are tricky and multifaceted."

When Jarvis graduated from Duke University School of Law, she owed $125,000 and faced thirty years' worth of $1,200 monthly payments. The public interest job she wanted after law school paid just $25,000 a year. Yet no one had told her she couldn't afford to go to Duke.

“We have a debt-based system of access to higher education. Only the very wealthy can attend law school without student loans,” Jarvis says. “Debt of $125,000 is typical. People are forced to spread that over a longer period of time—20 or 30 years—so they’re well into their careers before that debt is retired,” explains Jarvis who spoke at BASF last year and will serve (alongside California Supreme Court Associate Justice Goodwin Liu) on a new ABA Task Force on the Financing of Legal Education. “Debt increases the stress of professionals who are already in a high-stress job. It can be distracting and overwhelming and doesn’t promote their ability to thrive. The system as it’s operating is not sustainable.”

John Thies, the 2012–2013 president of the 32,000-member Illinois State Bar Association (ISBA), notes that the commonly heard statistic about lawyers graduating with more than $100,000 in debt doesn’t even include undergraduate debt. “With law graduates having a hard time finding jobs, they’re not paying down their debt right away so interest is accruing and that debt rapidly reaches $200,000,” explains Thies, who graduated from law school twenty-five years ago with $6,000 law school and undergraduate debt. “I’ve heard, ‘My debt is the mortgage for the house that I can never afford to live in’ and ‘I will die with this debt.’”

The student loan crisis was a focal point of Thies’s tenure. He formed the ISBA’s Special Committee on the Impact of Law School Debt, which invited lawyers, law professors, and judges to testify about the impact of debt on the delivery of legal services. “After hearing front-line experiences, we learned that student debt was impacting several areas,” explains Thies, a partner at Webber & Thies in Urbana, Illinois. “It affects life decisions such as whether to get married, have a family, or buy a house. Because lawyers burdened with debt don’t have the luxury to provide free legal aid, pro bono services suffered. It’s also affecting the ability of new lawyers to practice in smaller firms, which historically serve middle class individuals and the poor. Debt forgiveness programs are far from perfect because public interest jobs are grant driven and tend to be unstable. Meanwhile, borrowers’ interest continues to accrue. It was undeniable—this is a crisis that needs to be addressed. It’s not improving.”

The ISBA’s Special Committee on the Impact of Law School Debt’s report included several practical recommendations. For example, it suggested that the federal government cap loans available to law students and that law schools lose loan eligibility if too many of their graduates don’t land jobs or if more than 35 percent of graduates fail to reduce their loan principal during a given period.

Bar associations, Thies insists, can be “right in the middle” of the solution. “They’re among the most familiar with what’s needed regarding debt reform,” he says. For instance, bar associations can assist prelaw students with debt and career counseling and work with law schools to develop apprenticeship programs to make new graduates more employable. ISBA’s report also recommended that bar associations provide debt resources for solo practitioners and small-firm lawyers, and partner with schools, government, economic

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development groups, and recruiters to ensure that lawyers are placed in geographic and practice areas where they're most needed. Bar associations can also facilitate pro bono work and the sale of rural law practices to young lawyers.

Paul Henderson, San Francisco Mayor Ed Lee's deputy chief of staff, graduated from Tulane University Law School in 1993 with more than $65,000 of debt even though he'd received a generous scholarship from Tulane. "It doesn't sound like a lot now, but at the time, that was real money and the economy wasn't doing that great." Because Henderson was going to earn just $48,500 a year as a deputy district attorney, "I knew I had to have a plan."

He began working closely with Tulane's financial aid office, which advised him about loan consolidation. Even after he started practicing law, Henderson continued to consult with the law school's financial aid office. When he learned about loan forgiveness programs for public service lawyers, the law school financial aid office helped him reduce his debt by more than $10,000. Later, Henderson turned to financial advisors who suggested he roll his student debt into his mortgage to deduct his payments, resulting in a tax savings. As a result, he was able to pay off his law school debt within five years of graduation. "It's not like I was so brilliant," says Henderson, also a legal analyst for news outlets like CBS and CNN. "I brought my situation to experts and said, 'What do I do?'"

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For her part, Jarvis insists that although many people borrow "a whole lot" to attend law school, many people, like Henderson, don't regret it. "If you want to be a lawyer, you have to go to law school," she says. "Student debt enables us to achieve levels of education and professional success and be able to contribute. When people ask me, 'Would you do it again?' I say I would. The reality is this is the system we have, and student debt shouldn't stop people from getting an education."

But to help mitigate the effects of student debt, Jarvis recommends that lawyers, law firms, and bar associations stay informed about the issue. They can pressure law schools to control tuition increases and also provide support for newly admitted students managing loans. "They can provide programming, training, and consultation services," she says. "The typical crowd of financial advisors is focused on investments and wealth, which are not for the student loan borrower. There are useful student loan programs that can make debt more manageable, but they're convoluted and difficult to access even to sophisticated people like lawyers."

Similarly, Minsky recommends that all lawyers "pay attention to the news" about the student loan crisis. (His blog, at bostonstudentloanlawyer.com, covers policy discussions, current events, and tips.) Federal loan programs are "a lifeline for people," Minsky says. But there's "growing chatter in DC" about reform. "And lawyers are being made the scapegoat. Politicians talk about 'reckless law students' [who borrow too much]. They're an easy target and they're blamed. So they should make their voices heard. We can't stick our heads in the sand."

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